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2011 Jul-20 AM 10:47
U.S. DISTRICT COURT
N.D. OF ALABAMA

**UNITED STATES DISTRICT COURT**
**NORTHERN DISTRICT OF ALABAMA**
**BIRMINGHAM DIVISION**

| | | |
|---|---|---|
| KRISTY HOOD, | ) | |
| | ) | |
| Plaintiff, | ) | |
| | ) | No. |
| v. | ) | |
| | ) | |
| EVANS LAW ASSOCIATES, P.C. | ) | |
| | ) | |
| Defendant. | ) | |

## PLAINTIFF'S VERIFIED COMPLAINT

KRISTY HOOD (Plaintiff), through attorneys, KROHN & MOSS, LTD., alleges the following against EVANS LAW ASSOCIATES, P.C (Defendant):

### INTRODUCTION

1. Count I of Plaintiff's Complaint is based on the Fair Debt Collection Practices Act, 15 U.S.C. 1692 et seq. (FDCPA).

### JURISDICTION AND VENUE

2. Jurisdiction of this Court arises pursuant to 15 U.S.C. 1692k(d), which states that such actions may be brought and heard before "any appropriate United States district court without regard to the amount in controversy."

3. Defendant conducts business in the state of Alabama; therefore, personal jurisdiction is established.

4. Venue is proper pursuant to 28 U.S.C. 1391(b)(1).

### PARTIES

5. Plaintiff is a natural person residing in Double Springs, Winston County, Alabama.

6. Plaintiff is a consumer as that term is defined by 15 U.S.C. 1692a(3), and according to Defendant, Plaintiff allegedly owes a debt as that term is defined by 15 U.S.C. 1692a(5).

7. Defendant is a debt collector as that term is defined by 15 U.S.C. 1692a(6), and sought to collect a consumer debt from Plaintiff.

8. Plaintiff is informed and believes, and thereon alleges, that Defendant is a collections business with an office in Buffalo, New York.

9. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

## FACTUAL ALLEGATIONS

10. On or around June 22, 2011, Defendant began placing repeated collections calls to Plaintiff in connection with an alleged debt.

11. On or around that date, Defendant also called Plaintiff's mother-in-law and disclosed the nature of the alleged debt and the amount owed, and also that Defendant was attempting to collect on the alleged debt from Plaintiff.

12. Defendant calls Plaintiff from 855-865-7691, and possibly other numbers also.

13. During the initial calls, Plaintiff informed Defendant she is disputing that she owes the debt, and requested validation of same in writing.

14. Despite Plaintiff's repeated requests, Defendant has refused to provide Plaintiff with written proof of the debt or a mailing address to which Plaintiff can send correspondence.

15. Defendant has repeatedly called Plaintiff's husband at work, seeking and demanding payment on the alleged debt, despite being informed that such calls are prohibited.

16. Defendant has repeatedly threatened Plaintiff with wage garnishments and litigation, unless payment on the alleged debt was made.

17. Despite Plaintiff's repeated requests that calls cease until the debt is verified, Defendant has continued to call Plaintiff, seeking and demanding payment on an alleged debt.

## COUNT I
## DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES ACT

18. Defendant violated the FDCPA based on, but not limited to, the following:

a. Defendant violated §1692c(a)(1) of the FDCPA by communicating with the consumer at any unusual time or place or a time or place known or which should be known to be inconvenient to the consumer;

b. Defendant violated §1692c(b) of the FDCPA by communicating, without the prior consent of the consumer given directly to the debt collector, or the express permission of a court of competent jurisdiction, to third parties in connection with the collection of any debt;

c. Defendant violated §1692d of the FDCPA by engaging in conduct the natural consequence of which is to harass, oppress, or abuse any person in connection with the collection of a debt;

d. Defendant violated §1692d(5) of the FDCPA by causing a telephone to ring or engaging any person in telephone conversation repeatedly or continuously with intent to annoy, abuse, or harass any person called at that number;

e. Defendant violated §1692e(5) of the FDCPA by threatening to take any action that cannot be legally taken or is not intended to be taken; and

f. Defendant violated §1692e(10) of the FDCPA by making false or deceptive representations in connection with the collection of a debt.

WHEREFORE, Plaintiff, KRISTY HOOD, respectfully requests judgment be entered against Defendant, EVANS LAW ASSOCIATES, P.C., for the following:

19. Statutory damages of $1000.00 pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. 1692k;

20. Costs and reasonable attorneys' fees pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. 1692k; and

21. Any other relief that this Court deems appropriate.

RESPECTFULLY SUBMITTED,

By: _/s/ Brandon M. Walker______________

M. Brandon Walker
Walker McMullan, LLC
242 W. Valley Avenue
Suite 312
Birmingham, Alabama 35209
(205) 417-2541
Attorney for Plaintiff

## VERIFICATION OF COMPLAINT AND CERTIFICATION

STATE OF ALABAMA )
) ss:
COUNTY OF __________ )

Plaintiff, KRISTY HOOD, states the following:

1. I am the Plaintiff in this civil proceeding.
2. I have read the above-entitled civil Complaint prepared by my attorneys and I believe that all of the facts contained in it are true, to the best of my knowledge, information and belief formed after reasonable inquiry.
3. I believe that this civil Complaint is well grounded in fact and warranted by existing law or by a good faith argument for the extension, modification or reversal of existing law.
4. I believe that this civil Complaint is not interposed for any improper purpose, such as to harass any Defendant(s), cause unnecessary delay to any Defendant(s), or create a needless increase in the cost of litigation to any Defendant(s), named in the Complaint.
5. I have filed this Complaint in good faith and solely for the purposes set forth in it.
6. Each and every exhibit I have provided to my attorneys which has been attached to this Complaint is a true and correct copy of the original.
7. Except for clearly indicated redactions made by my attorneys where appropriate, I have not altered, changed, modified or fabricated these exhibits, except that some of the attached exhibits may contain some of my own handwritten notations.

Pursuant to 28 U.S.C. § 1746(2), I, KRISTY HOOD, hereby declare (or certify, verify or state) under penalty of perjury that the foregoing is true and correct.

7-6-11
Date

Kristy Hood
KRISTY HOOD

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